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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Forty-fourth session

SUMMARY RECORD OF THE 18TH MEETING

Held at the Palais des Nations, Geneva,
on Monday, 17 August 1992, at 10 a.m.

Chairman: Mr. ALFONSO MARTINEZ
later: Mr. CHERNICHENKO

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The meeting was called to order at 10.10 a.m.

ORGANIZATION OF WORK (continued)

1. The CHAIRMAN informed the Sub-Commission that Mr. Blanca, Under-Secretary-General for Human Rights, had assured him that measures would be taken without delay in response to the incident of which Ms. Ksentini had been the victim so that all the experts of the Sub-Commission would in future be provided with a document attesting that they enjoyed diplomatic immunity.

2. Mr. CISSE (Secretariat) confirmed that the Secretariat had made arrangements for issuing the attestation in question to all members of the Sub-Commission and to their alternates as soon as the latter had filled out the form produced for that purpose, which they should return as soon as possible together with two photographs.

3. The CHAIRMAN thanked the Secretariat for its prompt response to the request of the Sub-Commission's members.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1992/13; E/CN.4/Sub.2/1992/14; E/CN.4/Sub.2/1992/39; E/CN.4/Sub.2/1992/40; E/CN.4/Sub.2/1992/41; E/CN.4/Sub.2/1993/3-E/CN.4/Sub.2/1992/42; E/CN.4/Sub.2/1993/5-E/CN.4/Sub.2/1992/43; E/CN.4/Sub.2/1992/45; E/CN.4/Sub.2/1992/47; E/CN.4/Sub.2/1993/6-E/CN.4/Sub.2/1992/49; E/CN.4/Sub.2/1992/51; E/CN.4/Sub.2/1992/NGO/4; E/CN.4/Sub.2/1992/NGO/6; E/CN.4/Sub.2/1992/NGO/8; E/CN.4/Sub.2/1992/NGO/13; E/CN.4/Sub.2/1992/NGO/14; E/CN.4/Sub.2/1992/NGO/19)

4. Mr. CHERNICHENKO said that it posed a dilemma to have to choose between a rapid review of human rights violations throughout the world and a more in-depth consideration of a number of particularly shocking situations. At the risk of being accused of selectivity, he said that he preferred the latter approach. He had already referred to the situation in Africa during the examination of other agenda items; with regard to the human rights violations in the occupied Arab territories, he would confine himself to saying that they were unacceptable.

5. He wished to speak at greater length on the situation in Russia. While blood was being shed in the territories of the former Soviet Union, matters had not taken on the same proportions in Russia. Yet the situation there was hardly satisfactory, given the very serious social and economic difficulties that the country was experiencing. One non-governmental organization had already referred to a number of trouble spots that might well result in to human rights violations.

6. As to the territories of the former Soviet Union, it would appear that the violence had subsided in Moldova and in Georgia, whereas in Nagorny Karabakh, the situation set out in detail by the representative of Human

Rights Advocates remained critical. Declared or undeclared, a war was being waged between Armenia and Azerbaijan; in his view, the situation was as serious as in the former Yugoslavia, and he was in favour of convening a special session of the Commission on Human Rights on Nagorny Karabakh.

7. Although it was sometimes difficult to distinguish between political questions and purely humanitarian ones, he agreed with Mr. Eide that, in cases of intervention for humanitarian reasons, it was of the utmost importance not to modify the territorial status of the regions in question. A balance must be struck between the inviolability of territorial integrity and the right of peoples to self-determination.

8. He then turned to another alarming situation, in the Baltic States. In Latvia and Estonia, the Russian-speaking population was the target of discrimination; the authorities had not even attempted to deny it and had stripped many persons of their citizenship. In Estonia, they had even envisaged requiring the licence plates of Russian speakers to be a particular colour, yellow: that evoked unpleasant memories. The idea had, however, been rejected. In Lithuania, although the situation was much less alarming, it was regrettable that the decision had been taken to pull down the statue of Pushkin, whose only offence was to have been a great Russian poet who had been held in esteem by his Lithuanian friends.

9. He wondered whether the Sub-Commission should not examine potentially explosive situations more closely and even take preventive measures in certain cases. He proposed studying the question more thoroughly under agenda item 3. He was also very concerned about the situation in Iran. Although basically hostile to the principle of adopting a resolution in cases in which the Commission on Human Rights was considering a specific situation, he believed that it might perhaps be necessary to envisage doing so for Iran. The problem of the Kurds had become particularly serious in that country. Concerning the Kurds, Iraq had been the State most implicated in the past, but Turkey had increasingly been replacing Iraq in that unflattering role. He was surprised that Turkey should be so interested in the situation in Nagorny Karabakh and in the former Yugoslavia, while ignoring the question of the Kurds within its own borders.

10. Lastly, he would like the Sub-Commission to give close consideration to circumstances in which human rights violations were the acts of States themselves and to draft a report on that fundamental question of principle. He drew attention to working paper E/CN.4/Sub.2/1992/51, of which he was the author, and expressed the hope that the members of the Sub-Commission would comment upon it.

11. Ms. KSENTINI said that agenda item 6 provided an opportunity for a critical assessment of the work accomplished in the defence of human rights. As the drafting of numerous international instruments and the setting up of many mechanisms and procedures had shown, progress had been made, but political interests and ideological quarrels had too frequently paralysed effectiveness. The logic of human rights was all too often the victim of hypocritical attitudes that left the international community powerless to put an end to the most serious violations. Moreover, those responsible were all too often assured of impunity, and in that context she referred to the

apartheid regime in South Africa and Israel's policy in the occupied territories.

12. She deplored the continuing dichotomy between individual and collective rights and between civil and political rights and economic rights. She also regretted the inability of the international community to comprehend the external factors preventing the realization of all those rights. Whereas progress had been made in achieving recognition of economic rights, few effective measures had been taken to ensure their implementation in practice, and for many, civil and political rights continued to be "noble" rights which must take precedence over others.

13. Fostered by the collapse of communism, the ephemeral hope that an age of justice, progress and liberty was finally dawning had quickly faded, the bipolar world having given way to a unipolar system which imposed a sole model, conveyed by the media right into the homes of the third world, where an unshared prosperity could be viewed from afar. Under the current unipolar system, the South was forgotten, while new prospects for investment opened up in eastern Europe. She referred in that context to the famine in Somalia which, unbearable though it was, had attracted so little attention. Furthermore, at a time when many African countries had undertaken courageous reforms, they were left to struggle with their economic problems, overwhelmed by the social costs of the structural readjustment forced upon them and the burden of their external debt. She warned against underestimating the discontent of the segments of society that bore the brunt of the economic crisis in the poor countries. Such contempt might well be a boon to extremist and fundamentalist parties that exploited the situation and used democracy to their own ends, which were certainly not democratic. The danger was not confined to the South, because in an interdependent world, no country could remain in isolation.

14. The world had lost its bearings, and the expectations of recent years had quickly died with the resurgence of nationalism, regionalism, sectarianism, racism, ethnocentricity and inter-ethnic violence. Thus, at the very moment when certain States were speeding up their political and economic integration process, many others were disintegrating. She wondered about the causes of the situation in Yugoslavia and the reasons that prevented the international community from taking firm action. In view of that situation, which was so horrible that the International Committee of the Red Cross (ICRC) had broken its usual silence to condemn what was currently happening in Bosnia and Herzegovina, she asked how it was possible not to take action to oppose the policy of ethnic cleansing, of which Muslims were the main target.

15. Referring more particularly to the fate of refugees she said that, although for the time being it was essential to meet every emergency situation by granting asylum, and notwithstanding the obligation to provide assistance, the persons concerned must also have the right to return to their countries and homes as soon as possible. She condemned the forced displacement of populations and their replacement by settlers. That was a common practice developed by colonial or occupying powers to modify the demographic composition of the regions concerned, and she referred in particular to the case of the territories occupied by Israel. The multilateral negotiation process had not stopped the establishment of settlements in the occupied

Arab territories. It was also worth noting the decision announced by President Bush on 11 August that the United States Treasury would provide $10 billion in loan guarantees enabling Israel to borrow from private banks so as to finance the settlement of 400,000 Jewish immigrants; meanwhile, the Palestinian population had been reduced to the status of refugees.

16. More generally speaking, the situation of refugees was invariably the result of a denial of human rights, in particular the right to self-determination. She cited in that regard the right to self-determination of the Sahrawi people and referred to the study by Saddrudin Aga Khan, former High Commissioner for Refugees, on the mass exodus of populations in the region concerned. The problem there was one of unfinished decolonization, and she would have liked to see effective measures taken to implement the peace plan of the United Nations Secretary-General and to ensure that a referendum on the self-determination of the Sahrawi people was held under the auspices of the United Nations and in cooperation with the Organization of African Unity.

17. Mr. SACHAR said that as the numerous statements made at the Sub-Commission, in particular by representatives of non-governmental organizations (NGOs), had unfortunately shown, the basic right to life and liberty was still not guaranteed to all human beings. At the beginning of the 1980s, the debate on human rights had often been a pretext for confrontations between the two world super-Powers, the West posing as the champion of civil and political rights, and the East maintaining that those rights could not be exercised as long as economic, social and cultural rights were not guaranteed. The truth of the matter was that there was no contradiction between those two categories of rights, which were completely indissociable: the denial of either category inevitably had serious consequences. The collapse of the USSR had shown that democracy and development always went hand in hand. That did not mean, however, that civil and political rights were fully respected throughout the world. The report of the Secretary-General (E/CN.4/Sub.2/1992/11), which the Commission had considered under item 6 (a) of its agenda, had highlighted the resurgence of such phenomena as racism in the West, particularly in European countries, once considered models of tolerance and non-discrimination. In democracies of long standing, such as the United Kingdom and France, a "new racism" had emerged based on cultural differences. Paradoxically, such a phenomenon had an anti-racist veneer, respectful of the identity of all groups, but that purported respect for cultural uniqueness disguised a hatred of others. In those countries, nationalist arguments aimed in reality at consolidating the European identity.

18. The collapse of communism in Eastern Europe had led to a reawakening of nationalism and a resurgence of anti-Semitism (report of the Secretary-General, para. 14). In the United States and Russia, there had been an increase in racism and racist acts committed against minorities, and in the majority of European countries, racist or xenophobic sentiments were shared by an increasingly large percentage of the population (paras. 21-23). That phenomenon had attained alarming proportions in Bosnia, where the current situation had rightly aroused the concern of the international community.

19. Perhaps the international community should have reacted much more rapidly than had been the case to try and put an end to the sufferings of the population in Somalia. The concept of human rights was universal, and the international community was duty-bound to take action wherever those rights were violated, be it in Europe, Africa or Asia.

20. With regard to the item under consideration, the Sub-Commission traditionally assessed the situation of human rights in all countries, and it was clear that that approach must continue. However, it might also attempt to determine to what extent the rich and powerful States, which profited from the misery and poverty of other countries, were responsible for violations of human rights around the world. The same applied to countries which, under the guise of international tourism, encouraged the worst form of prostitution and slave trade with women in less-developed countries. Many Western countries adopted a paternalistic attitude towards small countries of Africa and Asia beset by military conflicts: turning their backs on such countries, they argued that tribal struggles were at issue which were of no concern to them. Yet those countries had not hesitated to support and arm Iraq, whose human rights record had been far from satisfactory. The United States had even considered starting a military exchange and training programme with that country three months before the invasion of Kuwait by Iraqi forces in August 1990. As pointed out by the Swedish ombudsman for ethnic discrimination in an article published in the Bulletin of Human Rights (91/1), that proved that Western business practices provided direct support for violations of human rights and were at the origin of the refugee problem in certain parts of the world and that the rich countries were responsible for the militarization of the third world and thus for the terrible armed conflicts and the resulting human rights violations there. That was a strong indictment, but clearly each country must examine its conscience, even those that claimed to be championing human rights and that took pride in their activities in that area. No country was above criticism. If those countries really wished to see human rights triumph, they must display humility and must truly implement the principles set forth in the various relevant international instruments, thereby helping to make the world a better place.

21. The international organizations, in particular the financial institutions such as the International Monetary Fund (IMF) and the World Bank were also implicated in certain human rights violations, because their financing of development projects such as the plan to build a dam in the Narmada Valley in India would have dangerous consequences for the environment and the life of the inhabitants of that region, who would have to be resettled. That problem was, of course, for India to settle, but it was worth considering whether the World Bank should not sometimes ignore its economic interests when they were not compatible with respect for human rights.

22. In closing, he said that, like Mr. Chernichenko, he was deeply disturbed by the plan to take down the statue of Pushkin in Lithuania. He had himself been shocked to see that the statue of Lenin had been destroyed in disregard for the role that Lenin had played in the country's history, which had not begun with the advent of a market economy in 1990.

23. Mr. TIAN Jin said that the world had entered a period of great uncertainty and turbulence. Contrary to expectations, the end of the cold war had not brought peace, and political disintegration in certain regions had been followed by armed conflicts and bloodshed with very serious consequences. The rise of nationalisms and racist tendencies had created a permanent threat to large numbers of foreigners in certain countries. Hegemonic aspirations and power politics had assumed new forms. The gap between the developed and the developing countries had not narrowed, and hundreds of millions of human beings still lived in need or in extreme poverty. Many countries were facing problems caused by growing drug traffic, the spread of AIDS and the worsening environment. The new world order designed in certain quarters in the West had met with a cold reception. It was in that broader context that the question of human rights violations must be examined.

24. More than 90 per cent of the allegations and accusations brought before the Sub-Commission against Governments every year were directed at developing countries. Yet everyone knew that no country was perfect. For example, the United States, a great country with many strong points but also with many weaknesses, was currently facing grave problems: the riots in Los Angeles in the spring of 1992, the most serious racial incident since the 1960s, illustrated the extent of the inequality between whites and blacks in all areas, whether in employment, education, housing or the administration of justice. The grave problems of crime, the 3 to 4 million homeless counted every summer, street children, drug addiction, single-parent families and homosexuality were well known. The United States was also the country with the world's highest ratio of persons in prison as a percentage of the total population. It was therefore only natural that in the aftermath of the Los Angeles riots many commentators in the United States and elsewhere had rightly pointed out that it was time for the United States to mind its own business instead of preaching to other countries. When considering violations of human rights, it would be more objective not to leave out the situation in the developed countries.

25. The United Nations currently had 179 Member States, and they were all historically, politically, economically, socially, culturally, geographically and demographically different. It followed that there was no system, mechanism or model that could be applied to all, not to say imposed by some on others. Some plants and flowers grew very well in certain regions but withered and died in others. That simple truth must be borne in mind if human rights problems were to be addressed and resolved effectively.

26. Mr. BOUTKEVITCH said that the wording of agenda item 6 was imprecise, and that had an impact on the effectiveness with which it was examined. Firstly, violations of human rights and fundamental freedoms were the subject of virtually all items on the Sub-Commission's agenda, and during the discussion on agenda item 6, speakers very often repeated what had already been said in connection with other items. Such repetition eventually became tiresome and counter-productive. The question of "policies of racial discrimination and segregation and of apartheid" in the wording of item 6 was included in an item on all violations of human rights and fundamental freedoms and therefore did not receive the special attention it deserved. That also meant that the problem of racial discrimination was considered after the Sub-Commission examined measures to combat it under agenda item 5, whereas

it would be more logical to analyse the phenomenon before looking at ways to eliminate it. Moreover, as racial discrimination had many facets, the obligations imposed on States in that regard by the International Convention on the Elimination of All Forms of Racial Discrimination were very numerous, and he did not see how a thorough study on State compliance could be undertaken. In the wording of item 6, emphasis was also placed on "colonial and other dependent countries and territories", and reference was made to Commission on Human Rights resolution 8 (XXIII), yet that resolution had been adopted 25 years previously and, since then, the world had changed considerably. There were currently just as many manifestations of racism and racial discrimination in Europe as in Africa. It was therefore necessary to provide a clearer definition of the purpose of item 6, whose current wording suggested that in the final analysis it was only concerned with human rights violations committed in certain colonial and dependent territories.

27. In order to examine the item with greater effectiveness, more concrete methods of analysis must be devised for the future. Proposals had been made to classify human rights violations according to their degree of seriousness. He wondered what criteria would be used to determine which violations were most serious and most dangerous and what place racial discrimination would occupy in a classification that did not exist under international law. The problem might well be insoluble. Classifying according to the applicable norms of international law would also prove to be too difficult and too time-consuming for the Sub-Commission, because all international human rights instruments entailed obligations for States, and therefore it would again be necessary to determine which obligations were the most important. Ms. Chavez had proposed to classify violations according to whether they were committed by individuals, by agents of the State or by Governments. That method had certain advantages, but in his view, State involvement in such violations was most serious of all, because States had certain obligations to respect, and violations committed by them had much graver consequences than the others. It was also necessary to specify which State bodies were responsible at all levels of government. The role of the legislative and judicial authorities was sometimes vital. In particular, there was a need to verify whether the laws adopted by the legislative authorities of a given State were consistent with international human rights instruments. It was at the legislative level that mechanisms for human rights protection were created, and it was there that the Sub-Commission could play a preventive role. Consideration might also be given to the practice of judicial authorities, which could be partly responsible for human rights violations if they delayed procedures or pronounced unjust rulings that created dangerous precedents.

28. The examination of violations committed by individuals could be undertaken in the framework of the consideration of violations attributable to the State and its bodies, because in such cases the State had not taken the measures necessary to protect the victims and thus had not complied with its obligations. As to the examination of violations that were the work of organizations, that necessitated investigations on the illegal activities of certain groups, because criminal organizations and groups often had an international dimension, for example in the case of the slave trade, and the State was hardly in a position to suppress their activities.

29. Concerning means of mass communication, he said that the media often conveyed the propaganda of the State, which used the media to pass off human rights violations as activities aimed instead at defending human rights or at combating terrorism. It was fairly simple for a Government to present any claim by a citizen as a danger to public order. In view of the questionable reliability of the media as a source of information, norms should be drafted for their use; freedom to disseminate information was one matter, illegal propaganda that violated human rights was another. The Sub-Commission should examine that difficult problem separately.

30. He concluded by saying that it was essential to devise a system for examining agenda item 6; Mr. Chernichenko and himself had made proposals on that subject.

31. Ms. WARZAZI said she was surprised that for the first time, Ms. Ksentini was taking an interest in the self-determination of what she had called the Sahrawi people, although the subject referred to was the violation of human rights of refugees. In actual fact, preparations for the planned referendum were under way, and the United Nations Secretary-General had expressed satisfaction with the collaboration of Morocco in that operation. Any interference with the referendum was exclusively due to the Polisario and the disagreements among its members, certain of them having decided of their own free will to return to their country, to the dismay of the members of the leading bodies of that movement who, in no hurry to lose the privileges and material advantages gained from the current situation, had accused those who returned to their country of engaging in propaganda. In the case under consideration, there was no reason to bring up the question of self-determination; the sensible reaction would be to encourage the return of those persons concerned and to request a thorough investigation of the various allegations made in connection with the current situation in that region. Calls for such an investigation had been made to a number of NGOs for quite some time, but there had been no response. In her view, consideration of the question should proceed along the same lines as in the past, i.e. as a strictly humanitarian matter.

32. Mr. RAMADHANE said it was regrettable that, when the question of human rights violations was raised, there was an automatic tendency to think of developing countries and to make no distinction among them. Yet only in certain developing countries did Governments impose unjust laws, and only certain leaders, to avoid losing power, oppressed the population, sometimes going so far as to commit massacres. In order to assist those in a leadership position in transferring power while ensuring that a spirit of vengeance did not take hold of the parties concerned, the Sub-Commission and other human rights bodies and NGOs must promote a democratic evolution in such countries and encourage resistance movements to be tolerant towards government leaders, who would act with greater moderation if they did not live in fear of being suddenly overthrown. Needless to say, such efforts would have no effect on countries ruled by dictators such as the Sudan, and the human rights community was duty-bound to bring pressure to bear in such cases. Although some leaders had come to power following a blatant coup d'état, in certain instances extremist parties, using democratic structures and citing Islam, advocated an ideology that was contrary both to Islam and to democracy. That was the case of the Islamic Salvation Front which, bolstered by the results of democratic

elections, had expressed satisfaction that religion had triumphed over democracy. Thus, democracy could also lead to dictatorship, as Hitler's coming to power had proved. That was a danger to certain developing countries which had experience in democracy and respect for human rights but which were very vulnerable because they were in a transition period politically and were experiencing economic difficulties. They had the greatest need for assistance and encouragement from the international community and the most important democracies. It was also important to ensure, concretely, that the population as a whole, including women, who had small children in their charge, were taught respect for human rights. Democracy would be much stronger in a country in which respect for human rights was inculcated at all levels.

33. Needless to say, human rights violations were not limited to the developing countries. In the advanced countries, they often involved plundering the riches and exploiting the labour of less developed countries. Although it was difficult to resolve immediately all the problems that that entailed, certain suffering due to administrative decisions, such as those concerning family reunification, would be very easy to attenuate. It would suffice to abrogate the decisions in question. Human rights violations committed against the elderly and children in Iraq or against the Palestinians in the occupied territories should also rouse the international community. Pending a settlement of that problem, the human rights community must protect the victims of those violations.

34. Ms. KSENTINI, returning to the question of Western Sahara, said that in other bodies of the United Nations system and in regional bodies that question had in fact been studied from the point of view of the right to self-determination of the Sahrawi people, a right that was spelled out in article 1 of both Covenants. It was fully within the competence of the Sub-Commission to address the issue too. For her part, she did not see why, just because she had not done so in the past, she should never evoke the right to self-determination of the Sahrawi people, all the more so in view of a very recent propaganda campaign that was a real insult to the Sub-Commission, a body in which censorship concerning Western Sahara was out of place.

35. Ms. WARZAZI said that censorship was of place not only for experts, but also for Governments.

36. Mr. Chernichenko took the Chair.

37. Mr. POTAPOV (World Federation of Trade Unions) said he attached particular importance to violations of trade union rights which, in view of his organization, were a good indication of the true situation in a country with regard to public liberties and fundamental rights. In the occupied Arab territories, the rights of Palestinian workers, and especially those of their trade union leaders, were flouted in all kinds of ways. Those workers, who were usually offered illicit employment or very low-paid jobs with little or no social protection, were denied, like the rest of the population, their right to equal treatment by the judicial administration. According to the media, the partial freeze on settlements in the occupied territories was a "giant step" that gave reason to be optimistic, but those territories were still under the control of the army, and the settlers already there were

staying. As to the situation of Palestinian workers, there had been no improvement whatsoever.

38. Turning to the Kurdish people, the victim of a veritable genocide attempt, he said he did not understand why that tragedy had not yet been given the attention it deserved by human rights bodies. The Sub-Commission should request the sending of a commission of inquiry to the countries concerned in order to inform international opinion objectively about the massacres, deportations and other human rights violations that had been perpetrated there. In Iran, mass executions, detentions, repression and torture, with many victims among trade union leaders and activists, constituted a flagrant violation of human rights.

39. In Colombia, paramilitary gangs continued to decimate the trade union movement and democratic organizations. In the Philippines, the progressive trade union movement was the target of killers hired by the employers. In Turkey, the "prisoners of conscience" included numerous trade unionists, an indication that freedom of opinion and union rights were still not respected. The Government gave no sign of wanting to modify that situation or to change its legislation. He also drew the Sub-Commission's attention to the importance of the Security Council's decisions concerning Western Sahara. The Sub-Commission should formulate recommendations on measures to exert appropriate pressure on those States with a poor human rights record which showed no willingness to try and rectify the situation.

40. Mr. TEITELBAUM (American Association of Jurists), speaking first on the situation in Peru, referred to the coup d'état of 5 April 1992, through which President Fujimori, regarded as a usurper and stripped of office by the Congress, had held on to power. Since then, Mr. Fujimori had partially suspended the Constitution, dissolved Congress and dismissed many members of the judiciary. He had also placed limitations on possibilities of applying for amparo and habeas corpus and had instituted the crime of opinion. Disappearances, murders and deaths in detention were continuing with regularity. The coup d'état had been the dictatorial solution to a conflict between the President and the Parliament, which had taken measures to limit the powers that Mr. Fujimori had improperly assumed with the support of the IMF. For its part, Shining Path profited from the dictatorship, the repression and the generalized poverty. As it was an established fact that the President of the Peruvian Republic had broken his word, the Sub-Commission should clearly and without delay call for the immediate and unconditional restoration of the constitutional order, representative democracy and the independence of the judiciary in Peru.

41. He then turned to the escape from prison of the drug trafficker Pablo Escobar, which illustrated well the current situation in Colombia. Continuing his criminal activities from prison, which had led to his transfer to another penitentiary, for which more than 300 soldiers had been mobilized, Escobar had clearly relied for his escape on the complicity of persons in high places. The Procurator of the Republic and the Ministry of the Interior had learned that the general who had commanded those soldiers had personally ordered the killing of 65 peasants in the region of Cayare and that drug traffickers had paid large sums to high-ranking officers of the armed forces. Meanwhile, children had been murdered or wounded or had disappeared. The

striking contrast between the privileges and complicity that dangerous criminals enjoyed and the mistreatment inflicted upon poor peasants was, unfortunately, typical of Colombia. The Sub-Commission should appoint an expert to investigate the role of drug trafficking in the deterioration of democratic institutions, the State apparatus and the social fabric and should propose ways to combat it, both in Colombia and in the main consumer countries.

42. Referring, lastly, to Guatemala, he recalled Commission on Human Rights resolution 1992/78 on assistance to that country in the area of human rights; the account given in the preamble to that resolution of the situation in Guatemala differed greatly from the reality denounced by many NGOs and by Mr. Tomuschat in his report (E/CN.4/1992/5). The Congress of the Republic of Guatemala itself had refuted the Commission's optimism in its resolution 19/92 of 28 April 1992, in which it had denounced the clear violation of the rights of workers and the denial of social rights and had criticized the administrative mechanisms and bodies responsible for law enforcement for their inefficiency, which encouraged impunity; it had decided strongly to condemn the constant and systematic violations of the basic social rights of workers and the administrative acts, behaviour and measures and an application of the law that contributed to impunity in the labour area, and it had demanded that those responsible for such violations should be punished. For its part, the Office of the President of Guatemala had attempted to deceive the people by publishing in the newspapers a truncated version of Commission resolution 1992/57 on the civil defence forces under the title "The UN recognizes and approves the role of the civil defence forces". Admittedly the Centre for Human Rights had reacted, but it was time to put an end to the ambiguity that had been maintained for many years by studying the situation in Guatemala under agenda item 19 of the Commission, which concerned countries that received assistance in the field of human rights, despite the imperative need to appoint a special rapporteur to examine in depth the massive and systematic need human rights violations in that country and to inform the international community of his findings. Public attention should also be drawn to the responsibility of States that continued to provide weapons to the Guatemalan armed forces and were thus largely responsible for the sufferings of the Guatemalan people.

43. Ms. KADJAR-HAMOUDA (International Federation Terre des Hommes) said that the situation of the Kurdish minority in Turkey was the result of the deliberate intention of the Turkish Government to deny an entire people its fundamental rights. According to a delegation of public figures from the United Kingdom who had visited the Kurdish region of Turkey in April 1992, during the New Year celebrations the army had opened fire on the population of Cizre, killing 12 persons, including at least 3 children. At Sirnak, a 16-year-old girl had died on 28 March 1992 while in custody. According to the official version, she had committed suicide, but her body had exhibited signs of blows and torture. In Diyarbakir, the delegation had seen a 5-year-old child who had been shot and seriously injured while standing on a balcony watching a demonstration. A doctor in the region had stated that the infant mortality rate and the number of cases of tuberculosis were twice as high as in Istanbul, and there were far too few doctors.

44. According to a report of Helsinki Watch on the situation of children in Turkey, a 10-year-old child had been arrested and beaten for being in a place where pro-PKK leaflets had been found. Three children between the ages of 14 and 16 had been arrested and tortured for selling red, green and yellow beads, the colours of the Kurdish flag. A 10-year-old girl wearing a dress of the same colours had been beaten by the police, because she had refused to remove it in public. A 17-year-old girl, arrested on 1 September 1991 on a charge of distributing political pamphlets, had been tortured and forced to sign a confession. According to Helsinki Watch, the torture of children was widespread in Turkey.

45. Having learned in November 1990 that 105 Kurdish children born between 1973 and 1979 were about to stand trial in Diyarbakir and that 28 of them risked the death penalty, the International Federation Terre des Hommes had made an appeal for clemency to the Turkish authorities. It had not received any response to date, and it would like to learn the fate of those children.

46. Turning to the situation in Cambodia, she was concerned to note that the intensity of military activities had not diminished since the signing of the peace agreements on 23 October 1991. The repatriation of refugees being undertaken by the Office of the United Nations High Commissioner for Refugees (UNHCR) had not been able to proceed as planned for lack of unmined arable land and because of the persisting insecurity. As pointed out by Mr. Asuchi Akashi, head of the United Nations Transitional Authority in Cambodia, the refusal of one of the parties to honour the obligations deriving from the agreement it had signed the previous October in Paris constitute a threat to all United Nations operations in Cambodia, including rehabilitation and reconstruction. It was no secret that the party alluded to was the Khmer Rouge faction, which took advantage of the catastrophic state of the country and socio-economic inequalities, the result of uncontrolled economic liberalism in the towns, to spread dangerous propaganda. The Khmer Rouge skilfully manipulated opinion among the peasants, who had suffered less than the townspeople from their murderous "exploits" or were too young to remember them. The economic and social situation was deteriorating, giving the Khmer Rouge real popularity. Every worsening of the general situation was to their benefit. They also played heavily on the latent xenophobia in the countryside; as always, they did not hesitate to use threats, physical elimination and violence to hold their territorial positions.

47. The international community must exercise all appropriate pressure to ensure that the agreements concluded were strictly respected by all parties, in particular the Khmer Rouge. It was necessary to put an end without delay to all banking, commercial and financial operations, especially the trade in wood and precious stones, that enabled the Khmer Rouge to finance their activities and strengthen their positions in the field.

48. Mr. ALVARADO (International Association against Torture) expressed his deep concern at the number of human rights violations reported in Guatemala since the current Government had taken office in January 1991: 1,113 extrajudicial executions (accompanied by torture in 157 cases), 17 massacres with a total of 70 victims, 90 enforced disappearances, 36 disappearances of children, 741 cases of arbitrary detention, 532 attacks

on the right to life, 623 cases of death threats and 85 cases of bombings and machine-gun attacks against the civilian population; those figures probably understated the real situation, because many witnesses refused to speak for fear of reprisals.

49. As in the past, the perpetrators of those violations were members of the army, paramilitary gangs (organized and directed by the army), members of the security forces and, in certain cases, members of the civilian self-defence patrols. The Government claimed that it had taken measures to put an end to the impunity enjoyed by the perpetrators of those violations. In actual fact, low-ranking soldiers and police officers were placed in detention, and for a short time at that, but not the high-ranking individuals responsible for planning the repression and the physical, moral and psychological destruction of Guatemalan society. Notwithstanding the recommendation made by Mr. Tomuschat in his report on the situation of human rights in Guatemala (E/CN.4/1992/5), the civilian self-defence patrols had still not been abolished and continued to enlist inhabitants, primarily indigenous persons, by force. Far from applying the few articles of the Constitution aimed at improving the situation of the indigenous communities, the State pursued its policy of discrimination, oppression and marginalization of that part of the population. Thus, notwithstanding their claims, the armed forces continued to recruit young indigenous persons under duress.

50. The Guatemalan army accused organizations that sought to improve the human rights situation of being subversive and communist, so as to justify the elimination or disappearance of activists in such groups. Despite the climate of terror that reigned in the country, the sectors of society most affected by the repressive Government policy had created the Coordinating Assembly of the Civil Sector to propose solutions to economic, social, political and cultural problems so as to respond to the hopes of the entire Guatemalan society that the negotiations conducted by the Government and the army with the Guatemalan National Revolutionary United Front (URNG) would lead to concrete agreements based on the needs of the population.

51. In order to assist the Government and URNG to create the basis for peace, justice and democracy, the Sub-Commission should send a delegation to Guatemala to examine the situation of the persons most affected by the repressive policy of the State, namely the indigenous population; it should support the initiative of the Mayan people of Guatemala to create an independent body composed of representatives of indigenous and human rights organizations in order better to defend their rights; it should call upon the Government and URNG to include in the negotiations the social sectors affected by the repression; and it should adopt a resolution urging the Guatemalan Government fully to respect human rights.

52. Mr. BEN MALEK (Observer for Tunisia), speaking in exercise of the right of reply, said that the statement made by the representative of the Union of Arab Jurists during the discussion of the item under consideration on 14 August was based on unfounded information that Tunisia had already refuted on other occasions. Honoured to have the headquarters of the Arab Institute of Human Rights on its soil, Tunisia had also hosted a section of Amnesty International since 1988. That openness of the new Tunisia was part of a policy to strengthen the rule of law. Tunisia's achievements in the area

of human rights, which the head of that organization had had occasion to see during his recent visit to Tunis, bore witness to its irreversible commitment and choice in favour of democracy.

53. The right to form political parties was guaranteed in Tunisia, provided that such parties respected the republican character of the State and the principle of the sovereignty of the people, that they worked to preserve national achievements, that they renounced violence and fanaticism and that they were not founded on a confessional, racial, regional or linguistic basis. Currently, seven legally recognized parties freely exercised their activities.

54. His delegation had already had occasion to inform the relevant bodies about the system of custody and pre-trial detention in force in Tunisia. No one was arbitrarily detained in Tunisia, there were no prisoners of conscience, and no one was arrested or tried unless he had committed an offence or a crime or been an accessory to such an act.

55. Mr. FERNANDEZ PALACIO (Observer for Cuba) said that on 14 August, Ms. Chavez had made a statement on Cuba similar to the one usually delivered by the official representatives of the United States Government. He was surprised that as an expert, Ms. Chavez had not said anything about what was happening in her own country, in particular the tragedy of the indigenous populations, which had been decimated, depossessed of their ancestral lands and confined to reserves, in addition to having signed nearly 400 treaties with the United States authorities, none of which had been respected. Nor had Ms. Chavez touched upon the question of racism, of which the black and Latin American minorities were the victims, or breathed a word about the events in Los Angeles, which had left over 50 dead and nearly 2,300 injured. She had also failed to explain why the proportion of black people in prison in the United States was four times greater than in South Africa. He wondered how the distinguished expert of the United States could feel entitled to speak of freedom and democracy when such events were occurring in her own country. How was it that Ms. Chavez, so concerned about human rights in other regions of the world, had not said a word about the criminal blockade which the Government of her country had been enforcing against Cuba for more than 30 years and which constituted a massive and flagrant violation of the human rights of an entire people?

56. Ms. PALLEY, speaking on a point of order, asked the Chairman whether an observer had the right to attack an expert of the Sub-Commission or to use expressions that might be regarded as an attack.

57. The CHAIRMAN said that he had made it a rule to take the greatest care to ensure that all persons participating in the work of the Sub-Commission could, without exception, fully exercise their right to freedom of expression, and that also applied to observers, who exercised their right of reply in order to respond to attacks upon their Governments.

58. Ms. PALLEY said that freedom of expression should not be used to launch personal attacks against an expert. While aware that the Chairman was in a difficult situation in the current case, she nevertheless asked him to bear in mind the rule prohibiting the injection of a personal element into replies.

59. The CHAIRMAN said that he was the Chairman for everyone, without exception, that he had no difficulty assessing any statements at their true value and that he had not noticed, during the statement in question, anything at variance with the rules governing the Sub-Commission's debates.

60. Mr. AL-KHASAWNEH said that the attacks of the observer for Cuba had been aimed at the United States, not at Ms. Chavez.

61. Ms. CHAVEZ said that in her statement she had confined herself to saying that Cuba was one of the last countries in the world that still had a totalitarian Government. She was surprised that it had taken the observer for Cuba so long to reply to such a brief allusion.

62. The CHAIRMAN said that the observer for Cuba had not exceeded his speaking time, and he invited him, at the suggestion of Mrs. ATTAH, to finish his statement.

63. Mr. FERNANDEZ PALACIO (Observer for Cuba) said that it was for the Cuban delegation alone to determine the importance that should be attached to an attack launched against Cuba. Those who sought to accuse Cuba were demonstrating boundless cynicism, and they were mistaken if they thought that they could act as defenders of human rights, because the day would come when they would have to explain to their own people why they had played the sad role of champions of imperialism.

64. Mr. MOLLAZADE (Observer for Azerbaijan) agreed with Mr. Chernichenko that Azerbaijan and Armenia were truly at war, even if it had not been formally declared. The Armenian army had crossed the internationally recognized borders of Azerbaijan and it, too, had engaged in a process of ethnic cleansing in Nagorny Karabakh. It was urgent to find a solution to the conflict, within the framework of the Conference on Security and Cooperation in Europe, that respected the territorial integrity of Azerbaijan and the right of the Armenians of Nagorny Karabakh to self-determination. But self-determination did not necessarily mean secession: Azerbaijan was prepared to grant the Armenians of Nagorny Karabakh broad political, economic, social and cultural autonomy, as well as the right to maintain links with Armenian citizens, as long as they did not endanger the security and territorial integrity of the country.

65. Mr. CHERNICHENKO, seeking to dissipate any misunderstanding, reaffirmed with regard to the humanitarian situation in Nagorny Karabakh that he did not wish to side with either the Armenians or the Azerbaijanis and that he sympathized with all the victims of confrontations, regardless of the ethnic group to which they belonged.

66. Mr. ZHANG (Observer for China), speaking in exercise of the right of reply, said he wished to respond to the grave accusations levelled against China on 14 August during the debate on the item under consideration. One speaker had attacked the social system of China, which she had called the last Communist authoritarian power. It should be recalled that, in accordance with the International Covenants on Human Rights, peoples freely determined their political status and freely pursued their economic, social and cultural development. Refusing to submit to the colonial powers that had sought to

impose their own model upon it, China had chosen to build a new country whose social system was just as favourable as any other with regard to human rights.

67. In that connection, he recalled the words spoken in Hong Kong in July 1992 by the former United Nations Secretary-General. Mr. Pérez de Cuéllar had stated that there was not enough proof to assert that massive human rights violations were taking place in China and that by ensuring respect for the right to life, China was in a better position than many other countries with regard to the defence of human rights.

The meeting rose at 1.05 p.m.